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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

(Division Bench)

CORAM : **Hon'ble Shri S.R. NAYAK, CJ**
& Hon'ble Shri Satish K. Agnihotri, J.

WRIT PETITION NO.1639 OF 2005

Petitioner

(1) Adivasi Vikas Avam Prashikshan Sanstha, Rajpur, Sarguja (C.G.) Registration No.9626 dated 21/11/1980, Through: its Secretary Shri Munna Lal Chowdhury, S/o Durga Prasad Chowdhury Aged about 49 years, R/o Rajpur, Block Rajpur, Dist: Surguja (C.G.)

(2) Shukhan Ram, S/o Teba Ram Aged about 30 years, Occupation: Sarpanch, R/o Village Ludgi (Sargaon), Vikas Khand Balrampur, Distt: Sarguja (C.G.)

VERSUS

Respondents

(1) Union of India Through: The Secretary, Ministry Home Affairs, New Delhi.

(2) The State of Chhattisgarh Through: The Secretary, Home Department D.K.S. Bhawan, Raipur.

(3) The Collector, Ambikapur, Distt: Sarguja (C.G.)

(4) Care India, 27 House Khas Village, New Delhi-110 016. Through: Chief Functionary.

(5) Development Alternative Price Water House Copper Private Limited, Through: Chief Functionary, B-32, Tara recent, Qutub Institutional Area, New Delhi-110016. Through: Chief Functionary.

(6) Church Azagilure Fro Social Action (Kasa), 2, Rachana Bhawan, 4th Manjeel Rajendra Place, Pusa Road, New Delhi-110008. Through: Chief Functionary.

(7) Action Ad Post Box No.54063, Rest House Road, Bangalore-560001. Through: Chief Functionary.

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(8) Indo German Social Society, 28, Lodhi Road, Institutional Area, New Delhi –110013. Through: Chief Functionary.

(9) Vishva Bank ki Garibi Unmunal Yojna, C.G. Districts Poverty Reduction Project, A-1, Gayatri Nagar, Raipur (C.G.) Through: Chief Functionary.

(10) Inter National Fund for Agriculture Development (I FED), New Delhi. Through: Chief Functionary.

Present:

Mr. A.V. Shridhar, learned counsel for the petitioners.

Mr. S.K. Beriwal, learned Central Govt. Counsel for respondent No.1.

Mr. Prashant Mishra, learned Additional Advocate General with Mr. Sanjay S. Agrawal, learned Govt. Advocate for the State/respondents No.2 & 3.

ORDER

(Passed on 22nd of November 2005)

The following Order of the Court was passed by

S.R. Nayak, CJ:

This writ petition is filed by Adivasi Vikas Avam Prashikshan Sanstha, Rajpur, and one Shukhan Ram, S/o Teba Ram, aged about 30 years, Occupation: Sarpanch, R/o Village: Ludgi (Sargaon), Vikas Khand: Balrampur, Distt: Sarguja (C.G.), claiming to be *pro-bono* public characters as a public interest litigation to espouse the cause of the tribals residing in Blocks: Rajpur, Balrampur, Kusmi, Shankargarh and Lundra of District: Sarguja. In the writ petition as well as in the representation dated 25.04.2004 submitted to the District Collector, District: Sarguja, it is alleged that respondents 4 to 10 – Societies received crores of rupees as contribution from the foreign countries exclusively for the welfare of the tribals, but the said money is misused and siphoned for the purpose other

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than the purposes for which such monies were received. So alleging, the petitioners have sought for a direction to the Government of India and the Govt. of Chhattisgarh to institute an enquiry into the allegations and take remedial measures to protect the interest of the tribals concerned.

2. We have heard Mr. A.V. Shridhar, learned counsel for the petitioners and perused the pleadings as well as material papers laid before us. If we may say so, the particulars laid before the Court are as scanty as they could be. Necessary material particulars are totally lacking. It is not stated when and what amount each of the seven societies received from foreign countries and out of those monies how much is spent on tribal welfare and how much is siphoned for extraneous purposes. Though, direction is sought against Government of India and Govt. of Chhattisgarh to institute an enquiry into the allegations levelled against respondents 4 to 10 – Societies in terms of the provisions of the Foreign Contribution (Regulation) Act, 1976 (for short 'the Act'), quite curiously, it seems that no representations were made either to the Govt. of India or to the Govt. of Chhattisgarh before filing this writ petition. The vague representation made to the District Collector could not be regarded as the one made to the Govt. of India or to the Govt. of Chhattisgarh. It needs to be noticed that the State Government has no regulatory or controlling power under the Act. It is quite often said and reiterated by the constitutional Courts that a pro-bono public character before approaching the Court under Article 226 of the Constitution of India by way of public interest litigation is required to make honest investigation and enquiry with regard to the allegations. The public interest litigation should be the outcome of such honest attempt. The public interest litigation cannot be grounded on imagination of a man. The role of pro-bono public character

in a matter like this is very responsible and onerous and nothing could be done casually or on the basis of gossip spread in the community. In the absence of necessary material particulars and since the petitioners have failed to bring the allegations to the notice of the Govt. of India, in the first instance, we are not inclined to step-in under Article 226 of the Constitution of India, at this stage, and entertain this public interest litigation.

3. In that view of the matter, we dismiss the PIL. However, we make it clear that this order shall not come in the way of the petitioners, if they so desire, to make appropriate representation to the Government of India giving particulars of the misuse of funds received by respondents 4 to 10 – Societies and seeking intervention of the Govt. of India under the provisions of the Act.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Brajesh*